

**State of California, Court of Appeal
Fourth Appellate District, Division 3
August 9, 2004**

CIVIL RICHARD D. NELSON
No. v.
G031525 LYNN R. DAVIS et al.

Order filed. The petition for rehearing is DENIED.

Bedsworth, J.

We concur: Moore, J.
 Ikola, J.

CIVIL PHILIP A. LEVY
No. v.
G032859 TROY SUGG

Order filed. Upon written stipulation filed by the parties to the appeal, the appeal is DISMISSED. Each party shall bear their own costs on appeal. The clerk of this court is directed to issue the remittitur forthwith.

Sills, P.J.

CIVIL AMYTONY HOMES INC. et al
No. v.
G033374 DOMINGO ABARQUEZ

Order filed. Pursuant to rule 23(e)(1), California Rules of Court, submission of the above matter is hereby vacated to invite the parties to file letter briefs on or before August 19, 2004, addressing the following issue: Are defendant's alleged statements an act within the meaning of Code of Civil Procedure section 425.16, subdivision (e)(2)? The matter will be resubmitted on August 19, 2004.

Bedsworth, J.

We concur: Aronson, J.
 Fybel, J.

**State of California, Court of Appeal
Fourth Appellate District, Division 3
August 9, 2004 (Cont'd)**

CIVIL
No.
G033964

MELISSA C.
v.
THE SUPERIOR COURT OF
ORANGE COUNTY;
ORANGE COUNTY SOCIAL
SERVICES AGENCY et al.

Not for publication

Opinion filed. Petition denied.

Fybel, J.

We concur: Bedsworth, Acting P.J.
Ikola, J.

**State of California, Court of Appeal
Fourth Appellate District, Division 3
August 10, 2004**

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| CRIM | THE PEOPLE | Not for publication |
| No. | v. | |
| G032635 | RUBEN SALCEDO POSADAS | |

Opinion filed. Judgment affirmed.

Fybel, J.

Bedsworth, Acting P.J.
Aronson, J.

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| CIVIL | PAYCHEX INC. |
| No. | v. |
| G034165 | VINCENT PINNONE |

Order filed. Appeal filed July 6, 2004, is dismissed for appellant's failure to timely designate the record on appeal.

Sills, P.J.

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| CRIM | THE PEOPLE |
| No. | v. |
| G034285 | DERON HOLLINS |

Order filed. On the court's own motion and for good cause, the appeal numbered G034285 is dismissed for appellant's failure to timely file points and authorities explaining why the appeal should not be dismissed after having been invited to do so.

Sills, P.J.

**State of California, Court of Appeal
Fourth Appellate District, Division 3
August 11, 2004**

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| CIVIL | BALBOA ISLAND VILLAGE INN INC. | Certified for publication |
| No. | v. | |
| G031636 | ANNE LEMEN | |

Opinion filed. Judgment affirmed in part and reversed in part.
Fybel, J.

We concur: Sills, P.J.
O’Leary, J.

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| CIVIL | PROFESSIONAL REAL ESTATE ENTERPRISES et al. |
| No. | v. |
| G032112 | THE SUPERIOR COURT OF ORANGE COUNTY |

Order filed. Submission of this matter is vacated to permit the parties to file supplemental letter briefs no later than August 23, 2004. The letter briefs shall be limited to a discussion of whether *Leader v. Health Industries of America Inc.* (2001)89Cal.App.4th 603 precludes appellants from seeking relief based upon the mandatory relief provision in Code of Civil Procedure section 473, subdivision (b), where appellants fail to file an amended complaint within the time allowed by the court. The matter will be submitted on August 23, 2004.
Sills, P.J.

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| CRIM | THE PEOPLE |
| No. | v. |
| G034078 | PAUL ALBERT GUARDADO |

Order filed. Appellant filed a notice of appeal from the denial of a “petition for reconsideration of the order denying the petition for a writ of habeas corpus” in superior court. The court issued an order advising appellant the court is considering dismissing the appeal on the basis that this is a nonappealable order. Appellant was invited, and did, submit points and authorities explaining why the appeal should not be dismissed. On the court’s own motion and for good cause, the appeal in case number G034078 is dismissed.
Sills, P. J.

**State of California, Court of Appeal
Fourth Appellate District, Division 3
August 11, 2004 (Cont'd)**

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| CRIM | THE PEOPLE |
| No. | v. |
| G034280 | DERON HOLLINS |

Order filed. Appellant filed a notice of appeal from the denial of his application for bail pending appeal. The court issued an order advising appellant the court is considering dismissing the appeal on the basis that this is a nonappealable order. Appellant was invited to submit points and authorities explaining why the appeal should not be dismissed, and failed to do so. On the court's own motion and for good cause, the appeal in case number G034280 is dismissed.

Sills, P.J.

**State of California, Court of Appeal
Fourth Appellate District, Division 3
August 12, 2004**

CIVIL CARMELITA CRUZ
No. v.
G033454 THE SUPERIOR COURT OF
 ORANGE COUNTY;
 ADVANCED OBGYN MEDICAL
 GROUP et al.

Certified for publication

Opinion filed. Petition denied.

Rylaarsdam, J.

We concur: Sills, P.J.
 Ikola, J.

CRIM THE PEOPLE
No. v.
G033903 PAUL ALBERT GUARDADO

Order filed. In 1995, appellant was convicted of second degree homicide and sentenced to 15 years to life. In 2004, appellant filed a notice of appeal “from the order denying defendants/petitioners (sic) ‘motion to vacate/set aside judgment’ on 3-30-04.” The court advised appellant that it is considering dismissing the appeal on the basis that this is not an appealable order. Appellant was invited to, and did, file points and authorities explaining why the appeal should not be dismissed. On the court’s own motion and for good cause, the appeal in case number G033903 is dismissed.

Sills, P.J.

CIVIL JAMES V. LAGUARDIA
No. v.
G034072 DALE M. TAMURA

Order filed. Pursuant to California Rules of Court, Rule 8(b)(1), the appeal filed June 15, 2004 is dismissed for appellant’s failure to timely deposit costs for preparing the record on appeal.

Sills, P.J.

**State of California, Court of Appeal
Fourth Appellate District, Division 3
August 12, 2004 (Cont'd)**

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| CRIM | THE PEOPLE |
| No. | v. |
| G034077 | JEROME BROWN |

Order filed. Appellant filed a notice of appeal from the superior court's order denying his petition for a writ of error coram nobis. The court advised appellant that it is considering dismissing the appeal on its own motion pursuant to People v. Thornton (1965) 233Cal.App.2d 1. Appellant was invited and did, file points and authorities explaining why the appeal should not be dismissed. Appellant's reference to section 904.1 of the Code of Civil procedure does not apply to criminal appeals. (Pen. Code 1237.) On the court's own motion and for good cause, the appeal in case number G034077 is dismissed.

Sills, P.J.

**State of California, Court of Appeal
Fourth Appellate District, Division 3
August 13, 2004**

CIVIL CLAUDE F. FINGERHUT
No. v.
G034020 RICHARD L. FINGERHUT

Order filed. Pursuant to California Rules of Court, rule 8(b)(1), the appeal filed June 3, 2004, is DISMISSED for appellant's failure to timely deposit costs for preparing the record on appeal. (Cal. Rules of Court, rule 4(b).)
Sills, P.J.